



## Board of Adjustment Case Report

City of Raleigh  
Department of City Planning  
One Exchange Plaza  
Raleigh, NC 27601  
(919) 996-2626  
[www.raleighnc.gov](http://www.raleighnc.gov)

**Case File:** A-80-17

**Property Address:** 319 Seawell Avenue

**Property Owner:** 319 Seawell LLC

**Project Contact:** Isabel Mattox

**Nature of Case:** A request for a 5' variance in the side street setback pursuant to Section 2.2.1. of the Unified Development Ordinance in order to construct a detached house on Lot 3 of a proposed Subdivision, S-50-16, that results in a 5' side street setback on a proposed .098 acre parcel zoned Residential-10 and Neighborhood Conservation Overlay District located at 319 Seawell Avenue.



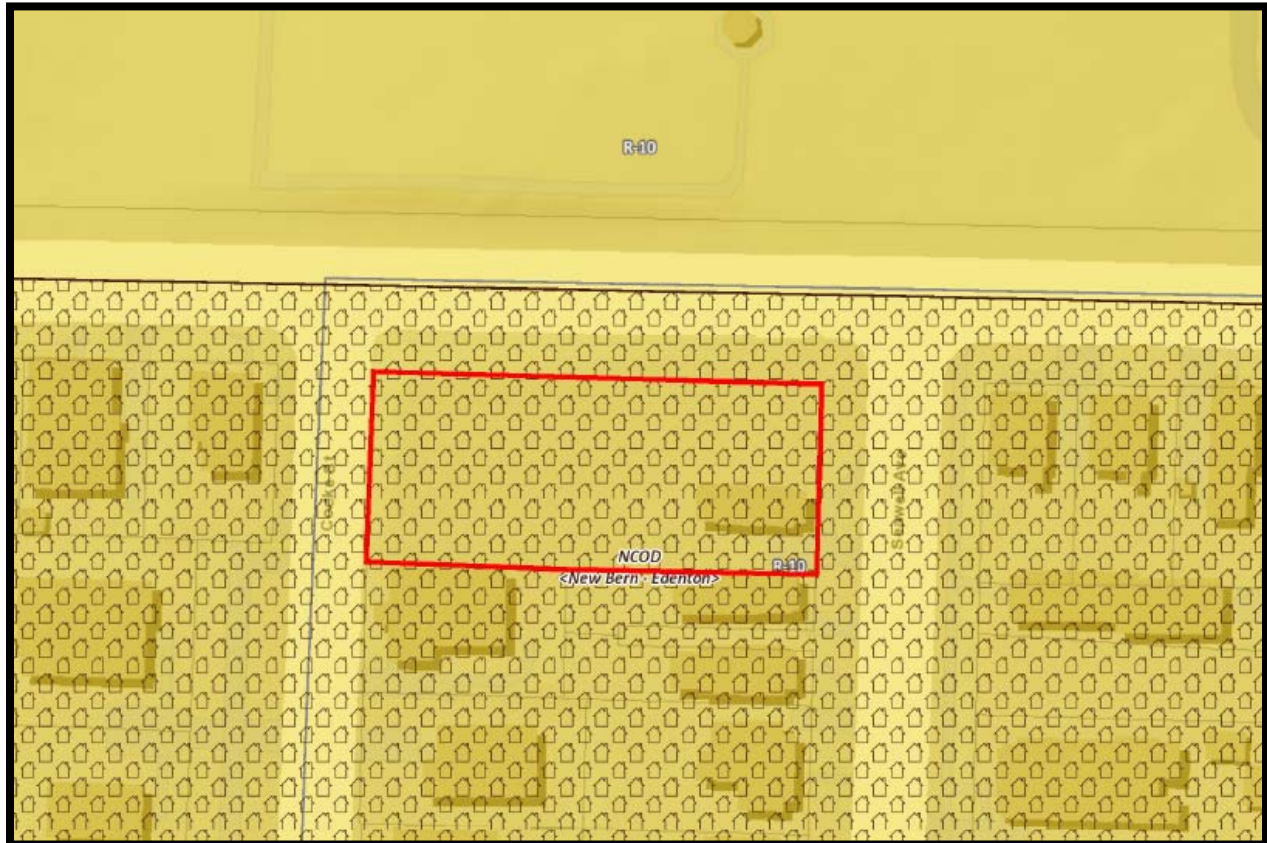
**319 Seawell Avenue – Location Map**

**To BOA:** 6-12-17

**Staff Coordinator:** Eric S. Hodge, AICP

**ZONING**

**DISTRICTS:** Residential-10 and Neighborhood Conservation Overlay District (New Bern-Edenton)

**319 Seawell Avenue – Zoning Map**

**VARIANCE STANDARDS:** In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

**Zoning District Standards:** The subject property is zoned Residential-10 and Neighborhood Conservation Overlay District (New Bern - Edenton).

**Residential-10:  
Lot Dimensions**

Area (min)	4,000 SF
Width – interior lot (min)	45
Width – corner lot (min)	60'
Depth -	60'

<b>Yard Type</b>	<b>Minimum Setback</b>
Primary Street	10'
Side Street	10'
Side	5'
Sum of Sides	10'
Rear	20'

**Neighborhood Conservation Overlay District (New Bern - Edenton)**

- a. Minimum lot size: 4,000 square feet.
- b. Minimum lot frontage: 30 feet.
- c. Front yard setback: Minimum of 10 feet, maximum of 25 feet.
- d. Side yard setback: Minimum of 0 feet when minimum building separation is met.
- e. Building separation: Minimum of 10 feet.
- f. Maximum building height: 35 feet




# Application for Variance



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
<p>Nature of variance request (if more space is needed, submit addendum on separate sheet):</p> <p>See attached Exhibit A.</p>	<p>Transaction Number</p> <p>A-80-17</p>
<p>Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.</p> <p>Subdivision of Lot 482023</p>	

GENERAL INFORMATION		
Property Address 319 Seawell Ave. (from Lot 3 of proposed subdivision)	Date May 12, 2017	
Property PIN 1714004633	Current Zoning R-10 with NCOD	
Nearest Intersection Seawell Ave. and Oakwood Ave.	Property size (in acres) 0.30 acres	
Property Owner 319 Seawell LLC	Phone	Fax
Owner's Mailing Address 310 Heck St., Raleigh, NC 27601-1214	Email	
Project Contact Person Isabel Worthy Mattox	Phone 919-828-7171	Fax 919-831-1205
Contact Person's Mailing Address PO Box 946, Raleigh, NC 27602	Email Isabel@mattoxfirm.com	
Property Owner Signature <i>[Signature]</i> Stuart Collison	Email	
<p>Notary</p> <p>Sworn and subscribed before me this <u>11<sup>th</sup></u> day of <u>May</u>, 20<u>17</u></p>	<p>Notary Signature and Seal</p> <p><i>[Signature]</i></p> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>MARY L. GALECKI Notary Public, North Carolina Franklin County My Commission Expires September 24, 2020</p> </div>	



## EXHIBIT A

319 Seawell Avenue, Raleigh

Applicant requests a 5' variance in the side street setback for Lot 3 of the proposed Idlewild Lot 2 Subdivision, S-50-16 (see attached proposed subdivision map). The subject property is zoned R-10 with the New Bern-Edenton NCOD overlay. R-10 and the NCOD both specify a 10' minimum front setback. R-10 requires a 10' side street setback but the NCOD is silent as to a side street setback. The Old Code did not have side street setbacks, only corner lot side setbacks and it is arguable that the framers of the NCOD intended the minimum side setback to be the side street setback, particularly in view of the built context of the NCOD. The New Bern Edenton NCOD chose to reduce the minimum side setback from 5' to 0' if the building separation was met.

The variance request is based on the following circumstances and conditions:

- (1) The existence of an approximately 20' strip of right-of-way between the back of curb and the Applicant's property line. A similar area is present along many side streets in this neighborhood. It is unlikely that Seawell and other area neighborhood streets will be widened and this right-of-way strip essentially provides a 20' setback between the street and a future home.
- (2) The context of this neighborhood includes a number of homes fronting on Oakwood Avenue. The Applicant proposes to construct 3 new homes fronting on Oakwood to repeat the rhythm along Oakwood Avenue. These homes have a shotgun feel and do not generally maintain much of a side street setback, other than a 20' strip of right-of-way, which is adjacent to many of these properties. Specifically:

722 Oakwood (corner of Oakwood and Cooke), the building appears to be less than 5' from the side street (Cooke) and does not maintain a 10' side street setback.

1102 Oakwood Avenue (corner of Oakwood and Heck Street), the building appears to be right on the property line as it abuts Heck Street and clearly does not maintain a 10' side street setback.

906 Oakwood (corner of Oakwood and Seawell), the building is shown as 5.6' from the side street (Seawell). This home is directly across Seawell Avenue from the subject property. If the Applicant's request for a 5' variance is granted, it would closely mimic the condition opposite this property.

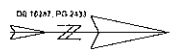
1118 Oakwood Avenue (corner of Oakwood and N. State Street), the building appears to be on the property line as it abuts N. State Street and clearly does not maintain a 10' side street setback.

- (3) Also, there are a number of homes in the same NCOD which do not maintain a 10' setback off the side street, including:

1101 E. Lane Street (corner of E. Lane and Heck Streets) the building appears to be on the property line as it abuts Heck Street and clearly does not maintain a 10' side street setback.

202 Idlewild (corner of Idlewild and Jones)—the building appears to be approximately 2' from the side street.





LEGEND:  
 BF = IRON PIPE FOUND  
 BS = IRON PIPE SET  
 CP = COAGULATED POINT  
 N4 = NOY. OR DIRT/DEBRIS  
 K4V = IRON/CL. CH. W/AY  
 M = IRON PIPE  
 M4 = IRON PIPE  
 C-6 = CHLORINATED ELECTRIC LINE  
 D4M4 = IDENTIFY SINKER W/WHOLE  
 W4 = WATER VALVE

- NOTES:
1. BOUNDARY SURVEY AND ALL EXISTING ON-SITE AND OFF-SITE FEATURES SHALL BE SHOWN PER CITY OF RALEIGH GAS MAPS AND SHOULD BE VERIFIED BY SURVEYOR.
2. STREETS, SANITARY & STORM SEWERS ARE EXISTING PER ABOVE STREET.
3. THE LOCATION OF EXISTING WATER MAINS ARE SHOWN PER CITY OF RALEIGH UTILITIES MAPS.
4. EXISTING UTILITIES SHALL BE SHOWN FROM CITY OF RALEIGH GAS MAPS AND SHOULD BE VERIFIED BY SURVEYOR.
5. ALL CONSTRUCTION SHALL COMPLY WITH APPLICABLE CITY OF RALEIGH DEVELOPMENT STANDARDS AND SPECIFICATIONS.
6. ALL NEW DRAINAGE UTILITIES WILL BE DETERMINED AND PERMITTED AT THE SITE PLAN SUBMITTAL PER CITY OF RALEIGH STANDARDS.
7. 96-FOOT STANDARD CITY OF RALEIGH RESIDENTIAL SOLID WASTE CURB PER CITY OF RALEIGH WASTE DESIGN MANUAL.
8. EXISTING DRIVEWAYS ON SEWELL ARE SHALL BE CLOSED AND REPLACED WITH STANDARD CITY OF RALEIGH SIDE CURB SECTION.
9. WITH THE CITY PRIOR TO RECONSTRUCTION OF SUBDIVISION.
10. AT THE TIME OF LOT PLAN REVIEW, RESIDENTIAL INT'L COMPATIBILITY WILL APPLY PER I.D.O. SECTION 2.2.7.
11. PER SECTION 9.2.2.2, THIS PROJECT IS EXEMPT FROM CITY OF RALEIGH TREE REMOVAL REQUIREMENTS.
12. PER SECTION 9.2.2.2.2, THIS PROJECT IS EXEMPT FROM CITY OF RALEIGH ADJ. CREEK STORMWATER REQUIREMENTS.

NOTE:  
LOTS 1 & 2 WILL USE JOINT DRIVEWAY ONTO  
OAKWOOD AVENUE.  
SHARED DRIVEWAY EASEMENT AGREEMENT IS  
REQUIRED PRIOR TO RECORPORATION OF LOTS.



NOT RELEASED FOR CONSTRUCTION

1714004633  
319 SEAWELL LLC  
310 HECK ST  
RALEIGH NC 27601-1214

1714002439  
PETERSON, EVERETTE LINDSAY III  
PETERSON, MEGAN HUF...  
313 COOKE ST  
RALEIGH NC 27601-1125

1714002545  
FARLEY, JOSEPH L SMITH, SUZANNE E  
317 COOKE ST  
RALEIGH NC 27601-1125

1714002652  
HOWARD, ROBERT HOWARD, ESSIE L  
720 OAKWOOD AVE  
RALEIGH NC 27601-1162

1714002692  
ADAIR, PATRICK  
1446 CIMARRON PKWY APT 63  
WAKE FOREST NC 27587-7368

1714004500  
SUBRAMANIAN, ADITI  
316 COOKE ST  
RALEIGH NC 27601-1126

1714004505  
CULBRETH, BARDEN LYON  
318 COOKE ST  
RALEIGH NC 27601-1126

1714004584  
OAKWOOD COTTAGES LLC  
318 SEAWELL AVE  
RALEIGH NC 27601-1256

1714004587  
MIXSON, GWENDOLYN SUE  
315 SEAWELL AVE  
RALEIGH NC 27601-1255

1714004590  
BURTON, JEFFREY SCHWETZ, R W  
523 E EDENTON ST  
RALEIGH NC 27601-1127

1714006631  
TIPPETT, JEFFERY TODD  
906 OAKWOOD AVE  
RALEIGH NC 27601-1244

1714007419  
PERRY, ELIZABETH C  
314 SEAWELL AVE  
RALEIGH NC 27601-1256

1714007514  
SHACKLETON, SCOTT P  
316 SEAWELL AVE  
RALEIGH NC 27601-1256

1714007526  
SHACKLETON, SCOTT P  
318 SEAWELL AVE  
RALEIGH NC 27601-1256

1714110503  
RALEIGH CEMETERY ASSOCIATION  
701 OAKWOOD AVE  
RALEIGH NC 27601-1161

1714110503  
RALEIGH CITY OF  
PO BOX 590  
RALEIGH NC 27602-0590

1714004405  
LEDO, MICHELE ANN  
KRABILL, LAURA ELISE  
227 ELM ST  
RALEIGH, NC 27601-1133

1714006661  
HUGHES, SARAH M  
908 OAKWOOD AVE  
RALEIGH, NC 27601-1244

1714007601  
THE SOUTH ROSE GROUP LLC  
5208 GINGER TRL  
RALEIGH, NC 27614-9659

1714004494  
SCHWETZ, R W & JEFFREY BURTON  
523 E EDENTON ST  
RALEIGH, NC 27601-1127

1714002603  
SIMMONS, DOROTHY HOLMES  
718 OAKWOOD AVE  
RALEIGH, NC 27601-1162